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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/774,765	01/30/2001	Michael J. Docy		5565

7590                    10/14/2003

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EXAMINER  
CYGAN, MICHAEL T

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ART UNIT                  PAPER NUMBER  
2855

DATE MAILED: 10/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/774,765	DOCY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Michael Cygan	2855	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 08 September 2003.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 1,4-6 and 9-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1,4-6 and 9-11 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 30 July 2002 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
 If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

#### Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
 a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                             | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

1. Claims 1 and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filippi (US 5,883,301) in view of Kammeraad (US 5,507,176). Filippi discloses a fuel tank tester utilizing an external source of pressure (pump 18), connections to pump relay [16] for connecting the external source of pressure to the tester, a pipeline [22] which connects the tester to the tank [20] and directs gas from the tank to a reference orifice [23], the reference orifice being connectable to the pipeline (column 12, lines 21-22), a pressure transducer [30], and a microcomputer [206] controlled electronics which perform timing functions and compare elapsed time and pressure values (Figure 1; column 12, lines 23-33; column 13, lines 25-28). See entire document, especially column 11, line 65 through column 13, line 41; and Figures 1, 2a, and 2b. Filippi teaches the claimed invention except for the enclosure of tester components in a housing. Kammeraad discloses a method for testing a fuel tank comprising pressurization of a fuel tank with an external pressure source to a predetermined stable pressure, actuating a timer at the stable pressure,

allowing the pressure to decay until a second, predetermined time is reached, and comparing the measured pressure difference to a predetermined leakage pressure difference to determine if the tank has an acceptable leakage rate, wherein the tester is enclosed by a housing [90]; see column 5 lines 60-61 and column 7, lines 11-44. It would have been obvious to use a housing as taught by Kammeraad in the invention taught by Filippi to enclose the tester components, since housings are well known to provide environmental protection and protect the enclosed components.

2. Claims 9, 10, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Filippi (US 5,883,301) in view of Kammeraad (US 5,507,176), further in view of Dodge (US 4,575,807). Filippi discloses a method for testing a fuel tank comprising pressurization of a fuel tank with an external pressure source to a predetermined stable pressure, actuating a timer at the stable pressure, allowing the pressure to decay until a second, predetermined time is reached, and comparing the measured pressure difference to a predetermined leakage pressure difference to determine if the tank has an acceptable leakage rate; see column 11, line 65 through column 13, line 41; and Figures 1, 2a, and 2b. The measurements include passage of gas through a reference orifice (column 12, lines 21-22), and are repeated (column 13, lines 37-38). Filippi teaches the claimed invention except for the enclosure of tester components in a housing and comparison of an

acceptable pressure change over a predetermined time period (column 13, lines 25-27), rather than the applicant's measurement of an acceptable time change over a predetermined pressure period.

Kammeraad discloses a method for testing a fuel tank comprising pressurization of a fuel tank with an external pressure source to a predetermined stable pressure, actuating a timer at the stable pressure, allowing the pressure to decay until a second, predetermined time is reached, and comparing the measured pressure difference to a predetermined leakage pressure difference to determine if the tank has an acceptable leakage rate, wherein the tester is enclosed by a housing [90]; see column 5 lines 60-61 and column 7, lines 11-44. It would have been obvious to use a housing as taught by Kammeraad in the invention taught by Filippi to enclose the tester components, since housings are well known to provide environmental protection and protect the enclosed components.

Dodge teaches that for a fluid leak testing method, a leak determination can be made either as an allowable pressure drop within a set time or an allowable time period for a preset pressure drop; see column 1, lines 41-52. It would have been obvious to one having ordinary skill in the art at the time the invention was made to measurement of a pressure change over a predetermined time period as taught by Dodge in the invention of Filippi to determine if the tank has an acceptable leakage rate, since Dodge teaches that the two techniques can be used interchangeably.

***Response to Arguments***

3. Applicant's arguments with respect to claims 1, 4-6, and 9-11 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).
5. A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Art Unit: 2855

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Cygan whose telephone number is 703-305-0846. The examiner can normally be reached on 8:30-6 M-Th, alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Lefkowitz can be reached on 703-305-4816. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.



Michael Cygan  
Examiner  
Art Unit 2855